



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 30-120 – Waiver Programs
Department of Medical Assistance Services
August 3, 2010

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 874 of the 2010 Acts of Assembly Items 297 WW and YYY, the proposed regulations will 1) reduce the maximum annual respite care hours from 360 to 240, and 2) contingent upon the federal legislative actions, reduce the maximum coverage amount for assistive technology and environmental modification services from \$5,000 to \$3,000. In addition, the proposed regulations will clarify the use of personal care aide services when private duty nursing hours cannot be staffed due to a shortage of licensed nurses. Finally, the proposed changes will alter the format of the regulations to achieve uniformity across all waiver programs and clarify numerous other requirements already existing in the regulations.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact

Pursuant to Chapter 874 of the 2010 Acts of Assembly Item 297 WW, the proposed regulations will reduce the maximum annual respite care hours available to the technology assisted waiver recipients from 360 to 240.¹ According to Department of Medical Assistance Services (DMAS), this change is estimated to reduce the total expenditures by \$100,784 in Fiscal Year (FY) 2011 and \$412,028 in FY 2012. One half of these expenditures are funded by the state and the remaining half funded by the federal government. While this proposed change will provide fiscal savings for the state and the federal government, the main effect will be on the recipients who are requiring more than 240 hours of respite care in a given year and their family

members as they will not be provided this service once the 240 hours limit is reached. Also, respite care providers are expected to be negatively affected as the demand for their services will decrease. Finally, the reduction in the influx of monies from the federal government into the Commonwealth represents a leakage and is expected to have a contractionary effect on the economy.

Similarly, Chapter 874 of the 2010 Acts of Assembly Item 297 YYY mandates that DMAS decrease the annual amount paid for environmental modifications and assistive technology from \$5,000 to \$3,000 effective January 1, 2011 unless there is an extension through June 30, 2011 of the increased Federal Medical Assistance Percentage under the American Recovery and Reinvestment Act. If the increased federal funding is not extended, this change is expected to reduce the environmental modification and assistive technology expenditures by \$41,764 in FY 2011 and \$94,488 in FY 2012. One half of these expenditures would be funded by the state and the remaining half funded by the federal government. While this proposed change would provide fiscal savings for the state and the federal government, the main effect would be on the recipients who would be requiring more than \$3,000 in a given year for their assistive technology and environmental modification needs as they would not be provided these products and services once the \$3,000 limit is reached. Also, providers of assistive technology and environmental modifications would be expected to be negatively affected as the demand for their products and services will decrease. Finally, the reduction in the influx of monies from the federal government into the state represents a leakage and would be expected to have a contractionary effect on the economy. At this time, no action has been taken to extend the increased federal funding for Medicaid.

Another proposed change will clarify the use of personal care aide services when private duty nursing hours cannot be staffed due to a shortage of licensed nurses which typically occurs in rural areas. According to DMAS, based upon current waiver enrollment, the primary caregiver assumes at least eight hours of skilled nursing care per day and, when skilled nursing hours cannot be staffed, 24 hours of care. Personal care aide hours are used in conjunction with waiver services and while personal care aide service utilization is currently underutilized, the proposed

¹ Due to a drafting error, the Budget Bill references a reduction from 720 to 240 hours.

clarification have the potential to increase the amount of personal care aide hours that may be used in the future.

The remaining changes are reorganization of the regulations to achieve consistency across all of the waiver programs and clarifications of requirements that currently exist either in the regulations or in the Code of Virginia. While these changes are not expected to create a significant direct economic impact as they already exist, they are expected to reduce the exceptions encountered during provider review and reduce the number of incorrect reimbursements and consequently provide some administrative savings to DMAS and the providers.

Businesses and Entities Affected

Approximately 323 recipients are receiving services under this waiver. Also, there are approximately 1,500 durable medical equipment providers and about 30 assistive technology and environmental modification service providers.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed reduction in the number of respite care hours and reduction in the spending limit for the environmental modifications have the potential to reduce the demand for labor. The proposed clarification of personal care aide hours for enrollees in conjunction with skilled nursing care could increase the demand for personal care services. Finally, the other proposed clarifications may reduce the number of appeals involved with recoveries and reduce the demand for labor associated with the administrative services.

Effects on the Use and Value of Private Property

The proposed regulations are not expected to have a direct impact on the use and value of private property. However, the proposed reduction in the number of respite care hours and reduction in the spending limit for the environmental modifications have the potential to reduce the profits and consequently the asset values of the affected providers. On the other hand, the updating of personal care for enrollees in conjunction with skilled nursing services and reducing

the number of appeals involved with recoveries by improving the clarity of the regulations could increase the profits and consequently the asset values of the affected providers.

Small Businesses: Costs and Other Effects

According to DMAS, most, if not all, of the 1,500 durable medical equipment providers and 30 assistive technology and environmental modification service providers are small businesses. The costs and other effects on small businesses are the same as the ones discussed above.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There is no alternative method that minimizes the adverse impact while achieving the same goal.

Real Estate Development Costs

No significant effect on real estate development costs is expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.